

1 John J. Edmonds (State Bar No. 274200)
 2 jedmonds@cepiplaw.com
 3 COLLINS EDMONDS POGORZELSKI
 4 SCHLATHER & TOWER, PLLC
 1851 East First Street, Suite 900
 5 Santa Ana, California 92705
 Telephone: (951) 708-1237
 6 Facsimile: (951) 824-7901
 7 Attorney for Plaintiff,
 8 DIGITECH IMAGE TECHNOLOGIES, LLC

9
 10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA

12 DIGITECH IMAGE 13 TECHNOLOGIES, LLC, Plaintiff, 14 v. 15 ELECTRONICS FOR IMAGING, 16 INC., Defendant.	CASE NO. SACV 12-01324-ODW (MRW _x) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
18 DIGITECH IMAGE 19 TECHNOLOGIES, LLC, Plaintiff, 20 v. 21 PANASONIC CORPORATION and PANASONIC 22 CORPORATION OF NORTH 23 AMERICA, Defendant.	CASE NO. SACV 12-01667-ODW (MRW _x) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
24 DIGITECH IMAGE 25 TECHNOLOGIES, LLC, Plaintiff, 26 v. 27 BUY.COM, INC., Defendant.	CASE NO. SACV 12-01668-ODW (MRW _x) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II

1	DIGITECH IMAGE	CASE NO. SACV 12-01669-ODW
2	TECHNOLOGIES, LLC,	(MRW _x)
3	Plaintiff,	
4	v.	[PROPOSED] PROTECTIVE
5	BEST BUY CO., INC.; BEST BUY	ORDER
6	STORES, LP; BESTBUY.COM	
7	LLC,	
8	Defendants.	Judge: Hon. Otis D. Wright, II
9	DIGITECH IMAGE	CASE NO. SACV 12-01670-ODW
10	TECHNOLOGIES, LLC,	(MRW _x)
11	Plaintiff,	
12	v.	[PROPOSED] PROTECTIVE
13	CANON INC. and CANON U.S.A.,	ORDER
14	INC.,	
15	Defendants.	Judge: Hon. Otis D. Wright, II
16	DIGITECH IMAGE	CASE NO. SACV 12-01671-ODW
17	TECHNOLOGIES, LLC,	(MRW _x)
18	Plaintiff,	
19	v.	[PROPOSED] PROTECTIVE
20	B&H FOTO & ELECTRONICS	ORDER
21	CORP.,	
22	Defendant.	Judge: Hon. Otis D. Wright, II
23	DIGITECH IMAGE	CASE NO. 8:12-CV-01673-ODW
24	TECHNOLOGIES, LLC,	(MRW _x)
25	Plaintiff,	
26	v.	[PROPOSED] PROTECTIVE
27	SAKAR INTERNATIONAL, INC.	ORDER
28	d/b/a VIVITAR,	
	Defendant.	Judge: Hon. Otis D. Wright, II
	DIGITECH IMAGE	CASE NO. 8:12-CV-01675-ODW
	TECHNOLOGIES, LLC,	(MRW)
	Plaintiff,	
	v.	[PROPOSED] PROTECTIVE
	LEAF IMAGING LTD (d/b/a	ORDER
	Mamiyaleaf), and MAMIYA	

1	AMERICA CORPORATION, Defendants.	Judge: Hon. Otis D. Wright, II
2		
3	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. OLYMPUS CORPORATION AND OLYMPUS IMAGING AMERICA, INC., Defendant.	CASE NO. SACV 12-01676-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
4		
5		
6		
7		
8		
9	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. LEICA CAMERA AG and LEICA CAMERA INC., Defendants.	CASE NO. SACV 12-01677-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
10		
11		
12		
13		
14	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. SONY CORPORATION; SONY CORPORATION OF AMERICA; and SONY ELECTRONICS INC., Defendants.	CASE NO. SACV 12-01678-AG (ANx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
15		
16		
17		
18		
19		
20	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. FUJIFILM CORPORATION, Defendant.	CASE NO. SACV 12-01679-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
21		
22		
23		
24	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. GENERAL IMAGING CO., Defendants.	CASE NO. 8:12-cv-01680-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER
25		
26		
27		
28		

1		Judge: Hon. Otis D. Wright, II
2	DIGITECH IMAGE	CASE NO. SACV 12-01681-ODW
3	TECHNOLOGIES, LLC,	(MRWx)
4	Plaintiff,	[PROPOSED] PROTECTIVE
5	v.	ORDER
6	SIGMA CORPORATION ET AL.,	Judge: Hon. Otis D. Wright, II
7	Defendant(s).	
8	DIGITECH IMAGE	CASE NO. SACV 12-01683-ODW
9	TECHNOLOGIES, LLC,	(MRWx)
10	Plaintiff,	[PROPOSED] PROTECTIVE
11	v.	ORDER
12	TARGET CORPORATION,	Judge: Hon. Otis D. Wright, II
13	Defendant.	
14	DIGITECH IMAGE	CASE NO. SACV 12-01685-ODW
15	TECHNOLOGIES, LLC,	(MRWx)
16	Plaintiff,	[PROPOSED] PROTECTIVE
17	v.	ORDER
18	NIKON CORPORATION AND	Judge: Hon. Otis D. Wright, II
19	NIKON INC.,	
20	Defendant.	
21	DIGITECH IMAGE	CASE NO. SACV 12-01686-ODW
22	TECHNOLOGIES, LLC,	(MRWx)
23	Plaintiff,	[PROPOSED] PROTECTIVE
24	v.	ORDER
25	MICRO ELECTRONICS, INC.,	Judge: Hon. Otis D. Wright, II
26	Defendant.	
27	DIGITECH IMAGE	CASE NO. SACV 12-01687-ODW
28	TECHNOLOGIES, LLC,	(MRWx)
	Plaintiff,	[PROPOSED] PROTECTIVE
	v.	ORDER
	OVERSTOCK.COM, INC.,	Judge: Hon. Otis D. Wright, II
	Defendant.	

1 2 3 4 5 6 7 8 9	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. NEWEGG INC. and NEWEGG.COM INC., Defendants. NEWEGG INC. Counter-Plaintiff, v. DIGITECH IMAGE TECHNOLOGIES, LLC and ACACIA RESEARCH CORPORATION Counter-Defendants.	CASE NO. SACV 12-01688-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
10 11 12 13 14 15	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. PENTAX RICOH IMAGING COMPANY, LTD., PENTAX RICOH IMAGING AMERICAS CORP., RICOH COMPANY, LTD., AND RICOH AMERICAS CORP., Defendants.	CASE NO. SACV 12-01689-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
16 17 18 19 20	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. XEROX CORPORATION, Defendant.	CASE NO. SACV 12-01693-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
21 22 23 24 25 26	DIGITECH IMAGE TECHNOLOGIES, LLC, Plaintiff, v. KONICA MINOLTA BUSINESS SOLUTIONS, U.S.A., INC., Defendants.	CASE NO. SACV 12-01694-ODW (MRWx) [PROPOSED] PROTECTIVE ORDER Judge: Hon. Otis D. Wright, II
27 28	DIGITECH IMAGE TECHNOLOGIES, LLC,	CASE NO. SACV 12-01695-ODW (MRWx)

1	Plaintiff,	[PROPOSED] PROTECTIVE ORDER
2	v.	
3	CDW LLC,	Judge: Hon. Otis D. Wright, II
4	Defendant(s).	
5	DIGITECH IMAGE TECHNOLOGIES, LLC,	CASE NO. 8:12-cv-01696-ODW (MRWx)
6	Plaintiff,	[PROPOSED] PROTECTIVE ORDER
7	v.	
8	VICTOR HASSELBLAD AB and HASSELBLAD USA INC.,	Judge: Hon. Otis D. Wright, II
9	Defendants.	
10	DIGITECH IMAGE TECHNOLOGIES, LLC,	CASE NO. SACV 12-01697-ODW (MRW)
11	Plaintiff,	[PROPOSED] PROTECTIVE ORDER
12	v.	
13	CASIO COMPUTER CO LTD, et al.,	Judge: Hon. Otis D. Wright, II
14	Defendant(s).	
15	DIGITECH IMAGE TECHNOLOGIES, LLC,	CASE NO. SACV 12-02122 ODW (SSx)
16	Plaintiff,	[PROPOSED] PROTECTIVE ORDER
17	v.	
18	ASUS COMPUTER INTERNATIONAL and ASUSTEK COMPUTER INC.,	Judge: Hon. Otis D. Wright, II
19	Defendants.	
20	DIGITECH IMAGE TECHNOLOGIES, LLC,	CASE NO. SACV 12-02123-ODW (MRWx)
21	Plaintiff,	[PROPOSED] PROTECTIVE ORDER
22	v.	
23	MOTOROLA MOBILITY LLC, et al.,	Judge: Hon. Otis D. Wright, II
24	Defendants.	

1 DIGITECH IMAGE
2 TECHNOLOGIES, LLC,
3 Plaintiff,
4 v.
5 APPLE, INC.
6 Defendants.

CASE NO. SACV 12-02125 ODW
(MRWx)

[PROPOSED] PROTECTIVE
ORDER

Judge: Hon. Otis D. Wright, II

7 Plaintiff Digitech Image Technologies, LLC (“Plaintiff”) and
8 Defendants Defendants Electronics for Imaging, Inc., Panasonic Corporation,
9 Panasonic Corporation of North America, Buy.com, Inc., Best Buy Co., Inc., Best
10 Buy Stores, LP; Bestbuy.com LLC, Canon Inc., Canon U.S.A., Inc., B & H Foto &
11 Electronics Corp., Sakar International, Inc. d/b/a Vivitar, Leaf Imaging LTD (d/b/a
12 Mamiyaleaf), Mamiya America Corporation, Olympus Corporation, Olympus
13 Imaging America, Inc., Leica Camera AG, Leica Camera Inc., Sony Corporation,
14 Sony Corporation of America, Sony Electronics, Inc., Fujifilm Corporation, General
15 Imaging Co., Sigma Corporation et al., Target Corporation, Nikon Corporation,
16 Nikon Inc., Micro Electronics, Inc., Overstock.com, Inc., Pentax Ricoh Imaging
17 Company, Ltd., Pentax Ricoh Imaging Americas Corp., Ricoh Company, Ltd., Ricoh
18 Americas Corp., Newegg Inc., Newegg.com, Inc., Xerox Corporation, Konica
19 Minolta Business Solutions, U.S.A., Inc., Victor Hasselblad AB and Hasselblad USA
20 Inc., Casio Computer Co Ltd, et al., Asus Computer International, Asustek Computer
21 Inc., Motorola Mobility, LLC et al., Apple, Inc. and CDW LLC (collectively
22 “Defendants”), and Third-Party Defendant Acacia Research Corporation anticipate
23 that documents, testimony, and other discovery-related materials containing or
24 reflecting confidential, proprietary, trade secret, and/or commercially sensitive
25 information are likely to be disclosed or produced during the course of discovery,
26 initial disclosures, and supplemental disclosures in this case and request that the
27 Court enter this Order setting forth the conditions for treating, obtaining, and using
28

1 such documents, testimony, and other discovery-related materials, and the
2 information contained therein.

3 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the Court finds
4 good cause for the following Protective Order Regarding the Disclosure and Use of
5 Discovery Materials (“Order” or “Protective Order”).

6 This proposed protective order is almost identical to the Standard Stipulated
7 Protective Order for Litigation Involving Patents in the Northern District of
8 California. The only changes to the Northern District’s Standard Order are (1) to
9 conform it to the Local Rules of the Central District with respect to filing documents
10 under seal, and (2) there are relatively minor modifications to Sections 5.1 and 5.2,
11 which relate to how protected information is designated.

12 **PROTECTIVE ORDER**

13 Based upon this Stipulation of Digitech and EFI, and good cause having been
14 shown to the satisfaction of this Court, it is hereby ordered that the following
15 procedures shall govern the production of all documents, testimony, discovery
16 responses, and other information in the above-captioned action (the “Action”),
17 including information produced by Digitech and EFI, any parties later joined in this
18 Action (together, “parties”), and all third parties subject to discovery herein:
19

20 **1. PURPOSES AND LIMITATIONS**

21 Disclosure and discovery activity in this action are likely to involve
22 production of confidential, proprietary, or private information for which special
23 protection from public disclosure and from use for any purpose other than
24 prosecuting this litigation may be warranted. This Order does not confer blanket
25 protections on all disclosures or responses to discovery and that the protection it
26 affords from public disclosure and use extends only to the limited information or
27 items that are entitled to confidential treatment under the applicable legal principles.
28 As set forth in Section 14.4, below, this Stipulated Protective Order does not entitle

1 the parties to file confidential information under seal; L.R. 79-5 sets forth the
2 procedures that must be followed and the standards that will be applied when a party
3 seeks permission from the court to file material under seal.

4 2. DEFINITIONS

5 2.1 Challenging Party: a Party or Non-Party that challenges the designation
6 of information or items under this Order.

7 2.2 "CONFIDENTIAL" Information or Items: information (regardless of
8 how it is generated, stored or maintained) or tangible things that qualify for
9 protection under Federal Rule of Civil Procedure 26(c).

10 2.3 Counsel (without qualifier): Outside Counsel of Record and House
11 Counsel (as well as their support staff).

12 2.4 Designated House Counsel: House Counsel who seek access to
13 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information in this
14 matter.

15 2.5 Designating Party: a Party or Non-Party that designates information or
16 items that it produces in disclosures or in responses to discovery as
17 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
18 ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE".

19 2.6 Disclosure or Discovery Material: all items or information, regardless of
20 the medium or manner in which it is generated, stored, or maintained (including,
21 among other things, testimony, transcripts, and tangible things), that are produced or
22 generated in disclosures or responses to discovery in this matter.

23 2.7 Expert: a person with specialized knowledge or experience in a matter
24 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve
25 as an expert witness or as a consultant in this action, (2) is not a past or current
26 employee of a Party or of a Party's competitor, and (3) at the time of retention, is not
27 anticipated to become an employee of a Party or of a Party's competitor.

28 2.8 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"

1 Information or Items: extremely sensitive “Confidential Information or Items,”
2 disclosure of which to another Party or Non-Party would create a substantial risk of
3 serious harm that could not be avoided by less restrictive means.

4 2.9 “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or
5 Items: extremely sensitive “Confidential Information or Items” representing
6 computer code and associated comments and revision histories, formulas,
7 engineering specifications, or schematics that define or otherwise describe in detail
8 the algorithms or structure of software or hardware designs, disclosure of which to
9 another Party or Non-Party would create a substantial risk of serious harm that could
10 not be avoided by
11 less restrictive means.

12 2.10 House Counsel: attorneys who are employees of a party to this action.
13 House Counsel does not include Outside Counsel of Record or any other outside
14 counsel.

15 2.11 Non-Party: any natural person, partnership, corporation, association, or
16 other legal entity not named as a Party to this action.

17 2.12 Outside Counsel of Record: attorneys who are not employees of a party
18 to this action but are retained to represent or advise a party to this action and have
19 appeared in this action on behalf of that party or are affiliated with a law firm which
20 has appeared on behalf of that party.

21 2.13 Party: any party to this action, including all of its officers, directors,
22 employees, consultants, retained experts, and Outside Counsel of Record (and their
23 support staffs).

24 2.14 Producing Party: a Party or Non-Party that produces Disclosure or
25 Discovery Material in this action.

26 2.15 Professional Vendors: persons or entities that provide litigation support
27 services (e.g., photocopying, videotaping, translating, preparing exhibits or
28 demonstrations, and organizing, storing, or retrieving data in any form or medium)

1 and their employees and subcontractors.

2 2.16 Protected Material: any Disclosure or Discovery Material that is
3 designated as "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL –
4 ATTORNEYS' EYES ONLY" or as "HIGHLY CONFIDENTIAL – SOURCE
5 CODE."

6 2.17 Receiving Party: a Party that receives Disclosure or Discovery Material
7 from a Producing Party.

8 3. SCOPE

9 The protections conferred by this Stipulation and Order cover not only
10 Protected Material (as defined above), but also (1) any information copied or
11 extracted from Protected Material; (2) all copies, excerpts, summaries, or
12 compilations of Protected Material; and (3) any testimony, conversations, or
13 presentations by Parties or their Counsel that might reveal Protected Material.
14 However, the protections conferred by this Stipulation and Order do not cover the
15 following information: (a) any information that is in the public domain at the time of
16 disclosure to a Receiving Party or becomes part of the public domain after its
17 disclosure to a Receiving Party as a result of publication not involving a violation of
18 this Order, including

19 becoming part of the public record through trial or otherwise; and (b) any
20 information known to the Receiving Party prior to the disclosure or obtained by the
21 Receiving Party after the disclosure from a source who obtained the information
22 lawfully and under no obligation of confidentiality to the Designating Party. Any use
23 of Protected Material at trial shall be governed by a separate agreement or order.

24 4. DURATION

25 Even after final disposition of this litigation, the confidentiality obligations
26 imposed by this Order shall remain in effect until a Designating Party agrees
27 otherwise in writing or a court order otherwise directs. Final disposition shall be
28

1 deemed to be the later of (1) dismissal of all claims and defenses in this action, with
2 or without prejudice; and (2) final judgment herein after the completion and
3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
4 including the time limits for filing any motions or applications for extension of time
5 pursuant to applicable law.

6 5. DESIGNATING PROTECTED MATERIAL

7 5.1 Exercise of Restraint and Care in Designating Material for Protection.
8 Each Party or Non-Party that designates information or items for protection under
9 this Order must take care to limit any such designation to specific material that
10 qualifies under the appropriate standards.

11 Mass, indiscriminate, or routinized designations are prohibited. Designations
12 that are shown to be clearly unjustified or that have been made for an improper
13 purpose (e.g., to unnecessarily encumber or retard the case development process or
14 to impose unnecessary expenses and burdens on other parties) expose the
15 Designating Party to sanctions.

16 If it comes to a Designating Party's attention that information or items that it
17 designated for protection do not qualify for protection at all or do not qualify for the
18 level of protection initially asserted, that Designating Party must promptly notify all
19 other parties that it is withdrawing the mistaken designation.

20 5.2 Manner and Timing of Designations. Except as otherwise provided in
21 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
22 stipulated or ordered, Disclosure or Discovery

23 Material that qualifies for protection under this Order must be clearly so
24 designated before the material is disclosed or produced.

25 Designation in conformity with this Order requires:

26 (a) for information in documentary form (e.g., paper or electronic
27 documents, but excluding transcripts of depositions or other pretrial or trial
28 proceedings), that the Producing Party affix the legend "CONFIDENTIAL" or

1 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY
2 CONFIDENTIAL – SOURCE CODE” to each page that contains protected material.

3 A Party or Non-Party that makes original documents or materials available for
4 inspection need not designate them for protection until after the inspecting Party has
5 indicated which material it would like copied and produced. During the inspection
6 and before the designation, all of the material made available for inspection shall be
7 deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the
8 inspecting Party has identified the documents it wants copied and produced, the
9 Producing Party must determine which documents, or portions thereof, qualify for
10 protection under this Order. Then, before producing the specified documents, the
11 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or
12 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY
13 CONFIDENTIAL – SOURCE CODE) to each page that contains Protected Material.

14 (b) for testimony given in deposition or in other pretrial or trial
15 proceedings, that the Designating Party identify within 21 days after the close of the
16 deposition, hearing, or other proceeding, all protected testimony and specify the level
17 of protection being asserted. Only those portions of the testimony that are
18 appropriately designated for protection within the 21 days shall be covered by the
19 provisions of this Stipulated Protective Order. Alternatively, a Designating Party
20 may specify, at the deposition or up to 21 days afterwards if that period is properly
21 invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or
22 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

23 Parties shall give the other parties notice if they reasonably expect a
24 deposition, hearing or other proceeding to include Protected Material so that the
25 other parties can ensure that only authorized individuals who have signed the
26 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those
27 proceedings. The use of a document as an exhibit at a deposition shall not in any way
28 affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –

1 ATTORNEYS' EYES ONLY.”

2 Transcripts containing Protected Material shall have an obvious legend on the
3 title page that the transcript contains Protected Material, and the title page shall be
4 followed by a list of all pages (including line numbers as appropriate) that have been
5 designated as Protected Material and the level of protection being asserted by the
6 Designating Party. The Designating Party shall inform the court reporter of these
7 requirements. Any transcript that is prepared before the expiration of a 21-day period
8 for designation shall be treated during that period as if it had been designated
9 “HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY” in its entirety unless
10 otherwise agreed. After the expiration of that period, the transcript shall be treated
11 only as actually designated.

12 (c) for information produced in some form other than documentary and
13 for any other tangible items, that the Producing Party affix in a prominent place on
14 the exterior of the container or containers in which the information or item is stored
15 the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS'
16 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE”. If only a
17 portion or portions of the information or item warrant protection, the Producing
18 Party, to the extent practicable, shall identify the protected portion(s) and specify the
19 level of protection being asserted.

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
21 failure to designate qualified information or items does not, standing alone, waive
22 the Designating Party's right to secure protection under this Order for such material.
23 Upon timely correction of a designation, the Receiving Party must make reasonable
24 efforts to assure that the material is treated in accordance with the provisions of this
25 Order.

26 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

27 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
28

1 designation of confidentiality at any time. Unless a prompt challenge to a
2 Designating Party's confidentiality designation is necessary to avoid foreseeable,
3 substantial unfairness, unnecessary economic burdens, or a significant disruption or
4 delay of the litigation, a Party does not waive its right to challenge a confidentiality
5 designation by electing not to mount a challenge promptly after the original
6 designation is disclosed.

7 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
8 resolution process by providing written notice of each designation it is challenging
9 and describing the basis for each challenge. To avoid ambiguity as to whether a
10 challenge has been made, the written notice must recite that the challenge to
11 confidentiality is being made in accordance with this specific paragraph of the
12 Protective Order. The parties shall attempt to resolve each challenge in good faith
13 and must begin the process by conferring directly (in voice to voice dialogue; other
14 forms of communication are not sufficient) within 14 days of the date of service of
15 notice. In conferring, the Challenging Party must explain the basis for its belief that
16 the confidentiality designation was not proper and must give the Designating Party
17 an opportunity to review the designated material, to reconsider the circumstances,
18 and, if no change in designation is offered, to explain the basis for the chosen
19 designation. A Challenging Party may proceed to the next stage of the challenge
20 process only if it has engaged in this meet and confer process first or establishes that
21 the Designating Party is unwilling to participate in the meet and confer process in a
22 timely manner.

23 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
24 court intervention, the Designating Party shall file and serve a motion to retain
25 confidentiality under L.R. 7 (and in compliance with L.R. 79-5, if applicable) within
26 21 days of the initial notice of challenge or within 14 days of the parties agreeing
27 that the meet and confer process will not resolve their dispute, whichever is earlier.
28 Each such motion must be accompanied by a competent declaration affirming that

1 the movant has complied with the meet and confer requirements imposed in the
2 preceding paragraph. Failure by the Designating Party to make such a motion
3 including the required declaration within 21 days (or 14 days, if applicable) shall
4 automatically waive the confidentiality designation for each challenged designation.
5 In addition, the Challenging Party may file a motion challenging a confidentiality
6 designation at any time if there is good cause for doing so, including a challenge to
7 the designation of a deposition transcript or any portions thereof. Any motion
8 brought pursuant to this provision must be accompanied by a competent declaration
9 affirming that the movant has complied with the meet and confer requirements
10 imposed by the preceding paragraph.

11 The burden of persuasion in any such challenge proceeding shall be on the
12 Designating Party. Frivolous challenges and those made for an improper purpose
13 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
14 expose the Challenging Party to sanctions. Unless the Designating Party has waived
15 the confidentiality designation by failing to file a motion to retain confidentiality as
16 described above, all parties shall continue to afford the material in question the level
17 of protection to which it is entitled under the Producing Party's designation until the
18 court rules on the challenge.

19 7. ACCESS TO AND USE OF PROTECTED MATERIAL

20 7.1 Basic Principles. A Receiving Party may use Protected Material that is
21 disclosed or produced by another Party or by a Non-Party in connection with this
22 case only for prosecuting, defending, or attempting to settle this litigation. Such
23 Protected Material may be disclosed only to the categories of persons and under the
24 conditions described in this Order. When the litigation has been terminated, a
25 Receiving Party must comply with the provisions of section 15 below (FINAL
26 DISPOSITION).

27 Protected Material must be stored and maintained by a Receiving Party at a
28

1 location and in a secure manner¹ that ensures that access is limited to the persons
2 authorized under this Order.

3 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
4 otherwise ordered by the court or permitted in writing by the Designating Party, a
5 Receiving Party may disclose any information or item designated
6 “CONFIDENTIAL” only to:

7 (a) the Receiving Party’s Outside Counsel of Record in this action, as
8 well as employees of said Outside Counsel of Record to whom it is reasonably
9 necessary to disclose the information for this litigation and who have signed the
10 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
11 A;

12 (b) the officers, directors, and employees (including House Counsel) of
13 the Receiving Party to whom disclosure is reasonably necessary for this litigation
14 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
15 A);

16 (c) Experts (as defined in this Order) of the Receiving Party to whom
17 disclosure is reasonably necessary for this litigation and who have signed the
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

19 (d) the court and its personnel;

20 (e) court reporters and their staff, professional jury or trial consultants,
21 and Professional Vendors to whom disclosure is reasonably necessary for this
22 litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
23 (Exhibit A);

24 (f) during their depositions, witnesses in the action to whom disclosure
25

26
27
28 ¹ It may be appropriate under certain circumstances to require the Receiving Party to store any electronic Protected Material in password-protected form.

1 is reasonably necessary and who have signed the “Acknowledgment and Agreement
2 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or
3 ordered by the court. Pages of transcribed deposition testimony or exhibits to
4 depositions that reveal Protected Material must be separately bound by the court
5 reporter and may not be disclosed to anyone except as permitted under this
6 Stipulated Protective Order.

7 (g) the author or recipient of a document containing the information or a
8 custodian or other person who otherwise possessed or knew the information.

9 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
10 ONLY” and “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or
11 Items. Unless otherwise ordered by the court or permitted in writing by the
12 Designating Party, a Receiving Party may disclose any information or item
13 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or
14 “HIGHLY CONFIDENTIAL – SOURCE CODE”] only to:

15 (a) the Receiving Party’s Outside Counsel of Record in this action, as
16 well as employees of said Outside Counsel of Record to whom it is reasonably
17 necessary to disclose the information for this litigation and who have signed the
18 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
19 A;

20 (b) Designated House Counsel of the Receiving Party² (1) who has no
21 involvement in competitive decision-making, (2) to whom disclosure is reasonably
22 necessary for this litigation, (3) who has signed the “Acknowledgment and
23 Agreement to Be Bound” (Exhibit A), and (4) as to whom the procedures set forth in
24
25
26
27

28 ² It may be appropriate under certain circumstances to limit the number of Designated House Counsel who may access “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information under this provision.

paragraph 7.4(a)(1), below, have been followed;³

(c) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants,⁴ and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

(f) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE”] Information or Items to Designated House Counsel or Experts.

(a)(1) Unless otherwise ordered by the court or agreed to in writing by the Designating Party, a Party that seeks to disclose to Designated House Counsel any information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b) first must make a written request to the Designating Party that (1) sets forth the full name of the Designated House Counsel and the city and state of his or her residence, and (2) describes the Designated House Counsel’s current and reasonably foreseeable future

³ This Order contemplates that Designated House Counsel shall not have access to any information or items designated “HIGHLY CONFIDENTIAL – SOURCE CODE.” It may also be appropriate under certain circumstances to limit how Designated House Counsel may access “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information. For example, Designated House Counsel may be limited to viewing “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information only if it is filed with the court under seal, or in the presence of Outside Counsel of Record at their offices.

⁴ To the extent that one or more of the parties wish to allow disclosure of information not only to professional jury or trial consultants, but also to mock jurors, to further trial preparation, the parties shall endeavor to draft a simplified, precisely tailored Undertaking for mock jurors to sign.

1 primary job duties and responsibilities in sufficient detail to determine if House
2 Counsel is involved, or may become involved, in any competitive decision-making.⁵

3 (a)(2) Unless otherwise ordered by the court or agreed to in writing by
4 the Designating Party, a Party that seeks to disclose to an Expert (as defined in this
5 Order) any information or item that has been designated “HIGHLY
6 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL
7 – SOURCE CODE”] pursuant to paragraph 7.3(c) first must make a written request
8 to the Designating Party that (1) identifies the general categories of “HIGHLY
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL
10 – SOURCE CODE” information that the Receiving Party seeks permission to
11 disclose to the Expert, (2) sets forth the full name of the Expert and the city and state
12 of his or her primary residence, (3) attaches a copy of the Expert’s current resume,
13 (4) identifies the Expert’s current employer(s), (5) identifies each person or entity
14 from whom the Expert has received compensation or funding for work in his or her
15 areas of expertise or to whom the expert has provided professional services,
16 including in connection with a litigation, at any time during the preceding five
17 years,⁶ and (6) identifies (by name and number of the case, filing date, and location
18 of court) any litigation in connection with which the Expert has offered expert
19 testimony, including through a declaration, report, or testimony at a deposition or
20 trial, during the preceding five years.⁷

21
22
23
24 ⁵ It may be appropriate in certain circumstances to require any Designated House Counsel who receives “HIGHLY
25 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information pursuant to this Order to disclose any relevant changes in job duties
or responsibilities prior to final disposition of the litigation to allow the Designating Party to evaluate any later-arising competitive
decision-making responsibilities.

26 ⁶ If the Expert believes any of this information is subject to a confidentiality obligation to a third-party, then the Expert should
provide whatever information the Expert believes can be disclosed without violating any confidentiality agreements, and the Party
seeking to disclose to the Expert shall be available to meet and confer with the Designating Party regarding any such engagement.

27 ⁷ It may be appropriate in certain circumstances to restrict the Expert from undertaking certain limited work prior to the termination
28 of the litigation that could foreseeably result in an improper use of the Designating Party’s “HIGHLY CONFIDENTIAL –
ATTORNEYS’ EYES ONLY” information.

1 (b) A Party that makes a request and provides the information specified
2 in the preceding respective paragraphs may disclose the subject Protected Material to
3 the identified Designated House Counsel or Expert unless, within 14 days of
4 delivering the request, the Party receives a written objection from the Designating
5 Party. Any such objection must set forth in detail the grounds on which it is based.

6 (c) A Party that receives a timely written objection must meet and
7 confer with the Designating Party (through direct voice to voice dialogue) to try to
8 resolve the matter by agreement within seven days of the written objection. If no
9 agreement is reached, the Party seeking to make the disclosure to Designated House
10 Counsel or the Expert may file a motion as provided in L.R. 7 (and in compliance
11 with L.R. 79-5, if applicable) seeking permission from the court to do so. Any such
12 motion must describe the circumstances with specificity, set forth in detail the
13 reasons why the disclosure to Designated House Counsel or the Expert is reasonably
14 necessary, assess the risk of harm that the disclosure would entail, and suggest any
15 additional means that could be used to reduce that risk. In addition, any such motion
16 must be accompanied by a competent declaration describing the parties' efforts to
17 resolve the matter by agreement (i.e., the extent and the content of the meet and
18 confer discussions) and setting forth the reasons advanced by the Designating Party
19 for its refusal to approve the disclosure.

20 In any such proceeding, the Party opposing disclosure to Designated House
21 Counsel or the Expert shall bear the burden of proving that the risk of harm that the
22 disclosure would entail (under the safeguards proposed) outweighs the Receiving
23 Party's need to disclose the Protected Material to its Designated House Counsel or
24 Expert.

25 8. PROSECUTION BAR

26 Absent written consent from the Producing Party, any individual who receives
27 access to another party's "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
28

ONLY” technical information or “HIGHLY CONFIDENTIAL – SOURCE CODE” information shall not be involved in the prosecution of patents or patent applications relating to digital imaging technology, including without limitation the patents asserted in this action and any patent or application claiming priority to or otherwise related to the patents asserted in this action, before any foreign or domestic agency, including the United States Patent and Trademark Office (“the Patent Office”).⁸ For purposes of this paragraph, “prosecution” includes directly or indirectly drafting, amending, advising, or otherwise affecting the scope or maintenance of patent claims.⁹ To avoid any doubt, “prosecution” as used in this paragraph does not include representing a party challenging a patent before a domestic or foreign agency (including, but not limited to, a reissue protest, *ex parte* reexamination or *inter partes* reexamination). This Prosecution Bar shall begin when access to “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” technical information or “HIGHLY CONFIDENTIAL – SOURCE CODE” information is first received by the affected individual and shall end two (2) years after final termination of this action.

9. SOURCE CODE

(a) To the extent production of source code becomes necessary in this case, a Producing Party may designate source code as “HIGHLY CONFIDENTIAL - SOURCE CODE” if it comprises or includes confidential, proprietary or trade secret source code.

(b) Protected Material designated as “HIGHLY CONFIDENTIAL – SOURCE CODE” shall be subject to all of the protections afforded to “HIGHLY

⁸ It may be appropriate under certain circumstances to require Outside and House Counsel who receive access to “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information to implement an “Ethical Wall.”

⁹ Prosecution includes, for example, original prosecution, reissue and reexamination proceedings.

1 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information including the
2 Prosecution Bar set forth in Paragraph 8, and may be disclosed only to the
3 individuals to whom “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
4 information may be disclosed, as set forth in Paragraphs 7.3 and 7.4, with the
5 exception of Designated House Counsel.¹⁰

6 (c) Any source code produced in discovery shall be made available
7 for inspection, in a format allowing it to be reasonably reviewed and searched,
8 during normal business hours or at other mutually agreeable times, at an office of the
9 Producing Party’s counsel or another mutually agreed upon location. The source
10 code shall be made available for inspection on a secured computer in a secured room
11 without Internet access or network access to other computers, and the Receiving
12 Party shall not copy, remove, or otherwise transfer any portion of the source code
13 onto any recordable media or recordable device. The Producing Party may visually
14 monitor the activities of the Receiving Party’s representatives during any source
15 code review, but only to ensure that there is no unauthorized recording, copying, or
16 transmission of the source code.¹¹

17 (d) The Receiving Party may request paper copies of limited portions
18 of source code that are reasonably necessary for the preparation of court filings,
19 pleadings, expert reports, or other papers, or for deposition or trial, but shall not
20 request paper copies for the purposes of reviewing the source code other than
21 electronically as set forth in paragraph (c) in the first instance. The Producing Party
22 shall provide all such source code in paper form including bates numbers and the
23 label “HIGHLY CONFIDENTIAL - SOURCE CODE.” The Producing Party may
24 _____
25

26 ¹⁰ It may be appropriate under certain circumstances to allow House Counsel access to derivative materials including “HIGHLY
27 CONFIDENTIAL - SOURCE CODE” information, such as exhibits to motions or expert reports,

28 ¹¹ It may be appropriate under certain circumstances to require the Receiving Party to keep a paper log indicating the names of any
individuals inspecting the source code and dates and times of inspection, and the names of any individuals to whom paper copies of
portions of source code are provided.

1 challenge the amount of source code requested in hard copy form pursuant to the
2 dispute resolution procedure and timeframes set forth in Paragraph 6 whereby the
3 Producing Party is the “Challenging Party” and the Receiving Party is the
4 “Designating Party” for purposes of dispute resolution.

5 (e) The Receiving Party shall maintain a record of any individual
6 who has inspected any portion of the source code in electronic or paper form. The
7 Receiving Party shall maintain all paper copies of any printed portions of the source
8 code in a secured, locked area. The Receiving Party shall not create any electronic or
9 other images of the paper copies and shall not convert any of the information
10 contained in the paper copies into any electronic format. The Receiving Party shall
11 only make additional paper copies if such additional copies are (1) necessary to
12 prepare court filings, pleadings, or other papers (including a testifying expert’s
13 expert report), (2) necessary for deposition, or (3) otherwise necessary for the
14 preparation of its case. Any paper copies used during a deposition shall be retrieved
15 by the Producing Party at the end of each day and must not be given to or left with a
16 court reporter or any other individual.¹²

17 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
18 OTHER LITIGATION

19 If a Party is served with a subpoena or a court order issued in other
20 litigation that compels disclosure of any information or items designated in this
21 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
22 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” that Party must:

23 (a) promptly notify in writing the Designating Party. Such notification
24

25
26
27 ¹² The nature of the source code at issue in a particular case may warrant additional protections or restrictions. For example, it may
28 be appropriate under certain circumstances to require the Receiving Party to provide notice to the Producing Party before including
“HIGHLY CONFIDENTIAL – SOURCE CODE” information in a court filing, pleading, or expert report.

1 shall include a copy of the subpoena or court order;

2 (b) promptly notify in writing the party who caused the subpoena or
3 order to issue in the other litigation that some or all of the material covered by the
4 subpoena or order is subject to this Protective Order. Such notification shall include
5 a copy of this Stipulated Protective Order; and

6 (c) cooperate with respect to all reasonable procedures sought to be
7 pursued by the Designating Party whose Protected Material may be affected.¹³

8 If the Designating Party timely seeks a protective order, the Party served
9 with the subpoena or court order shall not produce any information designated in this
10 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
11 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” before a
12 determination by the court from which the subpoena or order issued, unless the Party
13 has obtained the Designating Party’s permission. The Designating Party shall bear
14 the burden and expense of seeking protection in that court of its confidential material
15 – and nothing in these provisions should be construed as authorizing or encouraging
16 a Receiving Party in this action to disobey a lawful directive from another court.

17 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
18 PRODUCED IN THIS LITIGATION

19 (a) The terms of this Order are applicable to information produced by
20 a Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY
21 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL
22 – SOURCE CODE”. Such information produced by Non-Parties in connection with
23 this litigation is protected by the remedies and relief provided by this Order. Nothing
24

25
26
27 ¹³ The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the
28 Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or
order issued.

1 in these provisions should be construed as prohibiting a Non-Party from seeking
2 additional protections.

3 (b) In the event that a Party is required, by a valid discovery request,
4 to produce a Non-Party's confidential information in its possession, and the Party is
5 subject to an agreement with the Non-Party not to produce the Non-Party's
6 confidential information, then the Party shall:

7 1. promptly notify in writing the Requesting Party and the Non-
8 Party that some or all of the information requested is subject to a confidentiality
9 agreement with a Non-Party;

10 2. promptly provide the Non-Party with a copy of the Stipulated
11 Protective Order in this litigation, the relevant discovery request(s), and a reasonably
12 specific description of the information requested; and

13 3. make the information requested available for inspection by the
14 Non-Party.

15 (c) If the Non-Party fails to object or seek a protective order from
16 this court within 14 days of receiving the notice and accompanying information, the
17 Receiving Party may produce the Non-Party's confidential information responsive to
18 the discovery request. If the Non-Party timely seeks a protective order, the Receiving
19 Party shall not produce any information in its possession or control that is subject to
20 the confidentiality agreement with the Non-Party before a determination by the
21 court.¹⁴ Absent a court order to the contrary, the Non-Party shall bear the burden
22 and expense of seeking protection in this court of its Protected Material.

23 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a Receiving Party learns that, by inadvertence or otherwise, it has
25 _____
26
27

28 ¹⁴ The purpose of this provision is to alert the interested parties to the existence of confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to protect its confidentiality interests in this court.

disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

14. MISCELLANEOUS

14.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

14.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

1 Export Control. Disclosure of Protected Material shall be subject to all
2 applicable laws and regulations relating to the export of technical data contained in
3 such Protected Material, including the release of such technical data to foreign
4 persons or nationals in the United States or elsewhere. The Producing Party shall be
5 responsible for identifying any such controlled technical data, and the Receiving
6 Party shall take measures necessary to ensure compliance.

7 14.4 Filing Protected Material. The parties shall comply with the Local Rules
8 of the U.S. District Court for the Central District of California, without limitation
9 L.R. 79-5, when filing protected material or submitted protected material for en
10 camera review.

11 15. FINAL DISPOSITION

12 Within 60 days after the final disposition of this action, as defined in
13 paragraph 4, each Receiving Party must return all Protected Material to the
14 Producing Party or destroy such material. As used in this subdivision, "all Protected
15 Material" includes all copies, abstracts, compilations, summaries, and any other
16 format reproducing or capturing any of the Protected Material. Whether the
17 Protected Material is returned or destroyed, the Receiving Party must submit a
18 written certification to the Producing Party (and, if not the same person or entity, to
19 the Designating Party) by the 60-day deadline that (1) identifies (by category, where
20 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
21 that the Receiving Party has not retained any copies, abstracts, compilations,
22 summaries or any other format reproducing or capturing any of the Protected
23 Material. Notwithstanding this provision, Counsel are entitled to retain an archival
24 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
25 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
26 work product, and consultant and expert work product, even if such materials contain
27 Protected Material. Any such archival copies that contain or constitute Protected
28

1 Material remain subject to this Protective Order as set forth in Section 4
2 (DURATION).

3 IT IS SO ORDERED.

4
5 DATED: _____
6 Hon. Otis D. Wright, II
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Northern District of California
on [date] in the case of _____ **[insert formal name of the case and the
number and initials assigned to it by the court]**. I agree to comply with and to be
bound by all the terms of this Stipulated Protective Order and I understand and
acknowledge that failure to so comply could expose me to sanctions and punishment
in the nature of contempt. I solemnly promise that I will not disclose in any manner
any information or item that is subject to this Stipulated Protective Order to any
person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Northern District of California for the purpose of enforcing the terms of
this Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action.

I hereby appoint _____ [print or type full
name] of _____ [print or type full address
and telephone number] as my California agent for service of process in connection
with this action or any proceedings related to enforcement of this Stipulated
Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
[printed name]

Signature: _____
[signature]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28